

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Steckline Communications, Inc.)	File No.: EB-FIELDSCR-12-00005158
)	NAL/Acct. No.: 201432560002
Licensee of Station KQAM)	FRN: 0009951286
Wichita, Kansas)	Facility ID: 61362

FORFEITURE ORDER

Adopted: February 5, 2014**Released: February 5, 2014**

By the Regional Director, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of twenty-one thousand dollars (\$21,000) to Steckline Communications, Inc. (Steckline), licensee of AM Station KQAM (Station), in Wichita, Kansas, for willfully and repeatedly violating Sections 73.62, 73.1560(a), 73.1745(a), and 73.3526 of the Commission's rules (Rules).¹ The noted violations involved Steckline's failure to maintain required directional patterns within prescribed parameters, operate within authorized power limits, and maintain and make available a complete public inspection file.

II. BACKGROUND

2. On October 24, 2013, the Enforcement Bureau's Kansas City Office (Kansas City Office) issued a Notice of Apparent Liability for Forfeiture and Order (NAL) for twenty-one thousand dollars (\$21,000) to Steckline for operating the Station out of compliance with its authorization and for public inspection file violations.² As reflected in the NAL, on October 22, 2012, an agent from the Kansas City Office observed that the Station failed to operate at authorized nighttime power limits.³ The agent also observed that the Station's antenna's directional pattern was not within authorized levels.⁴ Finally, the agent observed the Station's public inspection file did not contain the required issues programs lists.⁵

3. In response to the NAL, Steckline requests significant reduction of the proposed forfeiture.⁶ Steckline asserts that prior to September 26, 2012, the Station was operating at licensed parameters and only

¹ 47 C.F.R. §§ 73.62, 73.1560(a), 73.1745(a), 73.3526.

² *Steckline Communications, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 14611 (Enf. Bur. 2013) (NAL). A comprehensive recitation of the facts and history of this case can be found in the NAL and is incorporated herein by reference.

³ *Id.* at 14611, para. 2.

⁴ *Id.* at 14611, para. 3.

⁵ *Id.* at 14612, para.4.

⁶ Letter from Greg Steckline, President, Steckline Communications, Inc., to Kansas City Office, South Central Region, Enforcement Bureau at 1–2 (received Nov. 22, 2013) (on file in EB-FIELDSCR-12-00005158) (NAL *Response*).

had one reading out of tolerance, which was promptly corrected after the October 22, 2012 inspection.⁷ Steckline also argues that its hiring of a consultant to do testing at the Station's monitoring points before the inspection is evidence of a "program to maintain rule compliance," which shows that any operational violations were not willful.⁸ Steckline alleges that "[s]omeone with knowledge and a key to our facility had tampered with the transmitter between September 26 and October 22."⁹ Steckline provides no other explanation for why the Station was operating with more than authorized power at night and with unauthorized directional antenna parameters. Steckline states that the agent from the Kansas City Office "mistakenly misunderstood shock and dismay" by Station personnel during the inspection upon discovery of the alleged tampering as ignorance regarding why the station operated overpower.¹⁰ Steckline admits that what the Station called its "issues programs lists" only contained lists of community issues and not the required lists of the programming the Station had aired on those issues, and states that it remedied this violation.¹¹ Finally, Steckline requests a substantial reduction of the proposed forfeiture, because it had not received a Commission violation prior to the written notices received in 2012 for other stations it owns.¹²

III. DISCUSSION

4. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),¹³ Section 1.80 of the Rules,¹⁴ and the *Forfeiture Policy Statement*.¹⁵ In examining Steckline's *NAL Response*, Section 503(b)(2)(E) of the Act requires that the Commission take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.¹⁶

5. We affirm the *NAL*'s finding that Steckline violated Sections 73.62, 73.1560(a), and 73.1745(a) of the Rules by operating its Station inconsistent with the terms of its station authorization.¹⁷ Steckline does not deny that on October 22, 2012, the Station was incapable of operating within authorized power limits at night, that its directional antenna was not within authorized levels, or that it could not correct

⁷ *Id.* at 1.

⁸ Letter from Greg Steckline, President, Steckline Communications, Inc., to Kansas City Office, South Central Region, Enforcement Bureau at 1 (received Dec. 18, 2013) (on file in EB-FIELDSCR-12-00005158) (*NAL Response Supplement*).

⁹ *NAL Response* at 1.

¹⁰ *Id.* at 2.

¹¹ *Id.* at 1.

¹² *Id.* at 2; *See Steckline Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 6168 (Enf. Bur. 2013) (*KYUL NAL*); *Steckline Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 6174 (Enf. Bur. 2013) (*KIUL NAL*).

¹³ 47 U.S.C. § 503(b).

¹⁴ 47 C.F.R. § 1.80.

¹⁵ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

¹⁶ 47 U.S.C. § 503(b)(2)(E).

¹⁷ *See NAL supra* note 2. Section 73.62 of the Rules requires AM licensees operating a directional antenna to maintain directional antenna relative phases within 3 degrees of the values specified or terminate operations within three hours or reduce power to eliminate excessive radiation. 47 C.F.R. § 73.62. Section 73.1560(a) of the Rules requires AM station licensees to maintain their antenna input power within 90% and 105% of the authorized power. 47 C.F.R. § 73.1560(a). Section 73.1745(a) of the Rules requires licensees to operate their stations pursuant to the terms contained in their authorizations. 47 C.F.R. § 73.1745(a).

the antenna's directional parameters when set in nighttime mode. Instead, Steckline asserts that its Station was operating within parameters prior to September 26, 2012, the date of a hired consultant's inspection, and that an unidentified third party must have tampered with the Station's equipment sometime between that date and the agent's inspection on October 22, 2012. Accordingly, Steckline asserts its violations were not willful. However, Steckline's violations were willful, because it consciously operated the Station.¹⁸ The Commission has held that inadvertent mistakes neither excuse a rule violation nor mitigate a forfeiture liability.¹⁹ Even if a third party tampered with the Station's equipment, Steckline's continued operation of the Station while failing to monitor its power level and directional pattern and discover its non-compliance, rendered its actions willful.²⁰ Moreover, we note that, unless the alleged sabotage occurred on October 21, 2012, all of the violations would have occurred on more than one day, and we may issue forfeitures for violations that are merely repeated and not willful.²¹ Therefore, based on the evidence before us, we conclude that Steckline willfully and repeatedly violated Sections 73.62, 73.1560(a), and 73.1745(a) of the Rules by failing to operate the Station within authorized power limits and maintain required directional patterns within prescribed parameters.

6. We also affirm the *NAL*'s finding that Steckline violated Section 73.3526 of the Rules by failing to maintain and make available a complete public inspection file for the Station.²² On October 22, 2012, an agent from the Kansas City Office asked to inspect the Station's public inspection file during regular business hours. The public inspection file contained documents that the Station called "issues programs lists"—except for the third quarter of 2012—but these documents did not contain any lists or information regarding the programs aired to address community issues.²³ In its *NAL Response*, Steckline admitted omitting the missing information and stated that it has since supplemented its issues programs lists.²⁴ Based on the evidence before us, we find that Steckline willfully and repeatedly violated Section 73.3526 of the Rules by failing to maintain required issues programs lists for the Station and willfully violated Section 73.3526 of the Rules by failing to make available required issues programs lists for the Station.

¹⁸ Steckline alleges that its hiring of the consultant to conduct the inspection demonstrates that it had a "program to maintain rule compliance" at the Station. *NAL Response Supplement* at 1. We note that the consultant's report stated that the "field engineer visited KQAM for the purpose of gathering pre-construction pattern data prior to construction of the [antenna structure]," not as part of a compliance monitoring program. In addition, if the Station had a strong compliance monitoring program in place, it might have discovered the alleged tampering and noncompliant operation prior to the agent's inspection. A violation may be willful, even if the violator had no intent to violate the Rules, if the violator consciously and deliberately committed or omitted a particular act. See 47 U.S.C. § 312(f)(1). In this case, Steckline willfully operated its Station and is responsible for the resulting violations.

¹⁹ See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387, para. 3 (1991) (holding that inadvertent mistakes are not mitigating circumstances that can serve to justify a forfeiture reduction), *recons. denied*, 7 FCC Rcd 3454 (1992); see also *Princess K Fishing Corp.*, Forfeiture Order, 24 FCC Rcd 2606, 2608–09, para. 9 (Enf. Bur. 2009) (stating that a licensee need not have the *mens rea* to commit a violation in order for a violation to be "willful"), *recons. dismissed*, Memorandum Opinion and Order, 27 FCC Rcd 4707 (Enf. Bur. 2012).

²⁰ We note that Steckline did not raise its tampering claims during the inspection or in its prior written responses regarding the violations. See *Steckline Communications, Inc.*, Notice of Violation, V201332560005 (Enf. Bur. Nov. 8, 2012); Letter from Greg Steckline, President, Mid-America Network, to Ronald D. Ramage, District Director, Kansas City Office, South Central Region, Enforcement Bureau at 3 (received Nov. 27, 2012) (on file in EB-FIELDSCR-12-00005158). Moreover, it has not provided any corroborating evidence of its tampering claims or any reasonable theories regarding the identity and motives of the alleged third party.

²¹ See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator's repeated signal leakage).

²² See *NAL* *supra* note 2.

²³ See 47 C.F.R. § 73.3526(12).

²⁴ *NAL Response* at 1.

7. Finally, we reject Steckline's request for reduction of the proposed forfeiture on the basis of its history of compliance with the Rules. On July 12, 2012, an agent from the Kansas City Office observed AM antenna fencing, main studio, and public inspection violations at KYUL-AM and KIUL-AM, two stations owned by Steckline.²⁵ We researched our records and determined Steckline also received a Notice of Violation on November 29, 2012 for violations associated with another of its stations, KGYN-AM.²⁶ Therefore, while Steckline may not have received a written violation prior to 2012, it can no longer claim that it has a history of compliance with the Rules. Therefore, we conclude no reduction in forfeiture is warranted on these grounds. Based on the evidence before us, we conclude that Steckline willfully and repeatedly violated Sections 73.62, 73.1560(a), 73.1745(a), and 73.3526 of the Rules by failing to maintain required directional patterns within prescribed parameters, operate within authorized power limits, and maintain and make available a complete public inspection file. As a result, the twenty-one thousand dollar (\$21,000) forfeiture proposed in the *NAL* is warranted.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Rules, Steckline Communications, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty-one thousand dollars (\$21,000) for violations of Sections 73.62, 73.1560(a), 73.1745(a), and 73.3526 of the Rules.²⁷

9. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Order.²⁸ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.²⁹ Steckline Communications, Inc. shall send electronic notification of payment to SCR-Response@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the *NAL*/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³⁰ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure

²⁵ See *KYUL NAL* at 6168–69; *KIUL NAL* at 6174–75. The agent observed that Station KYUL-AM did not maintain a main studio in the Scott City, Kansas area. See *KYUL NAL*. The agent also inspected Station KYUL-AM's public inspection file and found it missing all documents and issues programs lists after 2009. *Id.* In addition, the agent observed a section of the fence surrounding Station KIUL-AM's antenna structure lying on the ground. See *KIUL NAL*.

²⁶ *Steckline Communications, Inc.*, Notice of Violation, V201332500020 (Enf. Bur. Nov. 29, 2012).

²⁷ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 73.62, 73.1560(a), 73.1745(a), 73.3526.

²⁸ 47 C.F.R. § 1.80.

²⁹ 47 U.S.C. § 504(a).

³⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

10. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.³¹ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

10. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by both First Class and Certified Mail, Return Receipt Requested, to Steckline Communications, Inc. at 1632 South Maize Road, Wichita, KS 67209 and 1300 North 17th Street, 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director, South Central Region
Enforcement Bureau

³¹ See 47 C.F.R. § 1.1914.